

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXANDREA JEAN VUICH
and ANGELINA LANORA VUICH, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
November 14, 2006

Petitioner-Appellee,

v

JENNIFER JEAN VUICH,

Respondent-Appellant.

No. 269828
Wayne Circuit Court
Family Division
LC No. 05-439643-NA

Before: Fort Hood, P.J., and Murray and Donofrio, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (h). Because petitioner established by clear and convincing evidence at least one statutory ground for termination of parental rights and the record as a whole fails to establish by clear evidence that termination is not in the children's best interests, we affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that at least one of the statutory grounds for termination of respondent's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions leading to adjudication were respondent's lack of a home for the children and her relinquishment of their care to the paternal grandparents without provision. More than 182 days elapsed between the July 27, 2005 initial disposition and the March 24, 2006 termination hearing.

The evidence showed that, in February 2005, respondent was without a home and under protective services investigation and had not provided proper care for the children. When the children's removal was imminent, and in order to prevent their placement in foster care, respondent left the children with their paternal grandparents and left the state. During the 13 months of this proceeding, respondent committed several crimes in various states, and was incarcerated on various occasions for a total of nine months. She did not maintain contact with the agency or substantially comply with any of the elements of her treatment plan. At the time of the March 2006 termination hearing, respondent was incarcerated in Michigan and expecting

extradition in May 2006 to Florida on felony charges, and stated that she did not know what she wanted to do with the children.

Given respondent's history of constant criminality, her apparent lack of desire or intent to comply with services, her future incarceration of unknown duration, the length of time required to rehabilitate her following her release, and her lack of commitment to parenting the children in the future, the trial court did not err in determining that there was no reasonable likelihood that respondent would rectify the conditions of adjudication and become able to provide the children with proper care within a reasonable time, and termination was appropriate under MCL 712A.19b(3)(c)(i) and (g). However, the trial court should not have based termination on MCL 712A.19b(3)(h). The two-year period of incarceration referenced in that subsection begins at the time of the termination hearing, and includes both the time respondent is incarcerated and the time required for respondent to provide a normal home for the children. *In re Perry*, 193 Mich App 648, 650; 484 NW2d 768 (1992); *In re Neal*, 163 Mich App 522, 527; 414 NW2d 916 (1987). The length of respondent's Florida incarceration was not established by clear and convincing evidence, and the trial court incorrectly determined that respondent's incarcerations during the proceeding were included in the two-year time period. Despite this, the trial court could reasonably have found that the children would be deprived of a normal home life for more than two years because the two-year period of incarceration also includes the time required for respondent to provide a normal home for the children. However, the children also had a father whose parental rights were not yet terminated, and who was compliant with services. Clear and convincing evidence was not presented that the children would not be able to enjoy a normal home life in his care within two years, regardless of respondent's incarceration.

Finally, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The trial court did not err in going one step further and finding that termination of respondent's parental rights was in the children's best interests because the evidence showed no reasonable likelihood that respondent would provide proper care for them within a reasonable time.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Christopher M. Murray
/s/ Pat M. Donofrio